

**United States Department of Labor
Employees' Compensation Appeals Board**

M.G., Appellant

and

**U.S. POSTAL SERVICE, MAIN POST OFFICE,
Washington, DC, Employer**

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**Docket No. 14-1283
Issued: August 27, 2015**

Appearances:

Richard Daniels, for the appellant

Office of Solicitor, for the Director

Case Submitted on the Record

ORDER GRANTING REMAND

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

On May 16, 2014 appellant, through her representative, filed a timely appeal from the March 27, 2014 nonmerit decision of the Office of Workers' Compensation Programs (OWCP) which denied her request for reconsideration as her reconsideration request neither raised any substantive legal questions nor included new and relevant evidence. The Board docketed the appeal as No. 14-1283.

By memorandum to the Solicitor of Labor dated April 20, 2015, the Board requested a pleading from the Director of OWCP addressing the issue of whether, in the era of digital reporting, it is necessary that a medical report be physically signed if it is "DICTATED BUT NOT READ" or "dictated but unsigned." The Board noted in its memorandum that OWCP, in its June 20, 2013 decision denying modification of a February 28, 2013 denial of appellant's recurrence of disability claim, discussed the merits of the reports of appellant's treating Board-certified physiatrist, Dr. Daniel R. Ignacio, dated March 5 and 18, 2013.¹ These reports were written on Dr. Ignacio's letterhead, contained the notation "DRI:rhckjc," and stated that they were dictated by not read. However, when Dr. Ignacio's associate Dr. Georgia D. Cu, a Board-certified family practitioner, submitted a report dated October 15, 2013 that was dictated but not

¹ The Board notes that OWCP accepted appellant's claim for bilateral carpal tunnel syndrome and tenosynovitis of the left hand and wrist.

read, this report was rejected by OWCP in its March 27, 2014 decision as it was not signed and therefore not competent evidence.²

The Board noted that although it has held a physician's signature is required in order for a report to be considered competent evidence,³ due to technological changes, more reports are being signed electronically and are "dictated but not read." Additionally, the Board noted OWCP's inconsistency in treating the medical reports in this case, and questioned whether it was proper for OWCP to determine that the report of Dr. Cu did not constitute competent medical evidence. The Board allotted the Director 60 days within which to respond to its request for a legal pleading, which expired on June 19, 2015.⁴

On July 1, 2015 the Director filed a motion requesting the Board to set aside its March 27, 2014 decision and remand the case for further specified development. He stated that on remand OWCP would thoroughly review all of the medical evidence submitted, including the October 15, 2013 medical report of Dr. Cu, and provide a merit review of appellant's claim for recurrence of disability beginning December 17, 2012. The Director stated that "if deemed appropriate," OWCP would provide the physician an opportunity to sign the report.

The Clerk of the Board served appellant with a copy of the Director's motion to remand.

The Board has duly considered the matter and, for all of the reasons espoused by the Director in the motion to remand, said motion should be granted. This case will be remanded for OWCP to reconsider all of the medical evidence in accordance with this order to be followed by an appropriate merit decision in order to protect appellant's appeal rights. Accordingly,

² The Board notes that OWCP referred to the author of the October 5, 2013 report as Dr. Ignacio. Both Dr. Ignacio and Dr. Cu are listed on the letterhead, and both physicians are listed at the end of the report. However, the notation "GC:rhckjc" indicates that the author of the report was Dr. Cu.

³ *James A. Long*, 40 ECAB 538, 541 (1989); *see also Walter A. Fundinger, Jr.*, 37 ECAB 200, 204 (1985).

⁴ The Board notes that the Director did not reply until July 1, 2015. The Board requests that, going forward, the Director timely respond to the Board's requests for legal pleadings.

IT IS HEREBY ORDERED THAT that the decision of the Office of Workers' Compensation Programs dated March 27, 2014 is set aside and the case is remanded for further proceedings consistent with this order.

Issued: August 27, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board